

# OII Europe submission to the targeted consultation for the renewed LGBTIQ Equality Strategy beyond 2025

Prepared in May 2025

In 2020, the European Commission published its first-ever LGBTIQ Equality Strategy, marking a watershed moment for advancing and protecting the fundamental rights of LGBTIQ people in the EU, including intersex people and the ground of sex characteristics. The 2020-2025 Strategy set down concrete and clear objectives and measures for the Commission to build on in their work to mainstream LGBTIQ equality across different policy areas.

As set out in the Commissioner for Preparedness, Crisis Management and Equality, Hadja Lahbib's mission letter, the next EU LGBTIQ Equality Strategy has to continue building on the advancements already secured, and should also seek to continue the important work of mainstreaming intersex and LGBTQ rights in all areas of the Commission's work.

In this document, OII Europe has summarised, under 17 subheadings, the main policy actions it has identified for advancing intersex rights across the EU in the next 2025-2030 Strategy. We have worked to consolidate clear and comprehensive recommendations, as well as to provide key data in support of the proposed measures and objectives.

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## 1 - Countering backlash and the anti-gender movement

### Recommendations

We urge the European Commission to:

- Commit to the regular training and exchange of good practices with EU delegations and offices to ensure they are strong defenders and advocates of the principles of the Union of Equality regarding LGBTIQ rights.
- Take action, including launching infringement procedures, against Member States enacting laws and regulations which violate the fundamental rights of LGBTIQ people thereby breaching EU law, including EU values.
- Work to create an EU implementation mechanism related to the (non-) implementation of judgements of the Court of Justice of the EU (see more details below in the section on *Enforcement of CJEU judgements*).
- Ensure full fundamental rights compliance of all EU funding programmes, including structural funds.

As the guardian of the Treaties, it is important for the Commission to acknowledge that safeguarding the rights of all intersex people and LGBTIQ individuals within its borders and globally is an integral aspect of its commitment to upholding democracy and fundamental rights and freedoms across the Union.

According to the latest FRA LGBTIQ III survey, intersex respondents think that **prejudice and intolerance**, as well as **violence**, against LGBTIQ people have increased a lot in the EU in the last years (35% and 37% respectively). At the same time, **43%** of intersex survey respondents reported that they **do not think** the government in the country where they live **effectively combats prejudice and intolerance** against LGBTIQ people. Lastly, 52% of intersex respondents reported that they think the main reason for the increase of this violence is to be attributed to the negative stance and discourse by politicians and/or political parties. We are therefore clearly living in times of widespread and ever-increasingly prevalent hate speech against intersex and LGBTIQ persons.

These verbal attacks stem from a broad range of actors: from politicians and religious leaders to right-wing organisations and the media, they all contribute to the polarisation of public discourse, which is increasingly more violent, particularly against intersex and trans people. As mentioned in Commissioner Lahbib's mission letter for the Equality portfolio, hate-motivated violence and harassment, including in its online forms, need urgent prioritisation at EU-level.

Many of the attacks we are seeing against the fundamental rights and equality of LGBTIQ people - and in some specific cases of intersex people in particular - are being used to divide society for political gain, to distract from other more crucial political debates and are often

employed as part of a broader movement seeking to undermine democracy, fundamental human rights, the rule of law and the legitimacy of the EU. The EU institutions, specifically the Commission, have a key role to play in shining a light on these divisive, diversionary and reactionary tactics, and bear the responsibility to call out the instrumentalisation of intersex people and of the broader LGBTIQ community, especially in relation to fear-mongering and the spread of dis-and misinformation.

## 2 - Hate crime and hate speech / violence

### Recommendations

We urge the European Commission to:

- Work with Member States towards unblocking the Eurocrimes extension to include hate crime and hate speech in the list of EU crimes in Article 83(1) of the Treaty on the Functioning of the European Union (TFEU), including with a focus on online hate.
- Encourage Member States to include SOGIESC grounds in their national hate crime and hate speech legislation to better protect LGBTIQ people.
- Publish a study on discrimination against LGBTIQ persons, including its new forms arising from the use of Artificial Intelligence (AI), which includes recommendations regarding the application of relevant anti-discrimination legislation, as well as which gaps remain to be closed. Developments in AI, whilst creating opportunities for promotion and protection of human rights, also have the potential to aggravate hate speech and hate crimes against LGBTIQ people.
- Enforce the Digital Services Act (DSA) and make sure that online platforms abide by their obligation to moderate content and remove illegal content online.
- Ensure that LGBTIQ civil society organisations are included in reporting procedures and exercises under the EU Code of Conduct on countering illegal hate speech online, and ensure that participation is adequately remunerated.
- Co-sign a pledge, together with the President of the European Parliament, wherein EU institutions commit to fair, hate-free political discourse, sending a strong political signal that hate speech has no place in the democratic discourses within EU institutions.
- Better support the countering of anti-LGBTIQ hate speech and hate crimes, including by ensuring that the implementation of the revised Victims' Rights Directive necessarily emphasises the specific needs of vulnerable victims, including intersex victims of crimes, alongside LGBTQ victims.

The current rise in violence against LGBTIQ people, including hate speech and hate crime, has been documented by the European Fundamental Rights Agency. It is both an online and offline phenomenon; with the manifestation of the online dimension spreading more quickly. Online violence can limit LGBTIQ people's access to many different 'spaces' which can be vital for work, education, and social life. Data from the latest FRA LGBTIQ III survey attests that most LGBTIQ people (63%) often or always encounter hateful statements about the LGBTIQ community online, most often referencing 'LGBTIQ propaganda' or 'gender ideology'. Over the last 2-3 years, **intersex activists** across the EU have reported that they **continue to face increasing levels of backlash and hostility**. This includes hate crime, hate speech online, as well as in-person threats. These attacks range from micro-aggressions in daily life, to full-blown hate speech attacks in the media or by public authorities.

When it comes to hate crime and hate speech legislation at national level, only 7 Member States<sup>1</sup> include the ground of sex characteristics as an aggravating circumstance, which means that in the majority of EU countries, intersex people are not adequately protected against bias-motivated violence and harassment. This reality requires strong and coordinated actions from the Commission, tackling both online and offline hate.

While the Commission has addressed the topic in its previous mandate, putting forward ambitious proposals such as the extension of the list of Eurocrimes to include hate crime and hate speech, and drafting key pieces of legislation such as the Digital Services Act (DSA) addressing the online dimension of hate, not all of these measures were brought to completion. The climate in Europe has worsened since then, with many groups being increasingly targeted by hate-motivated violence. The Commission should not give up on the extension of the list of Eurocrimes, but work with Member States to reach an agreement. Existing tools like the DSA should be made use of to the fullest.

## 2.1 - Gender based violence

### Recommendations

We urge the European Commission to:

- Consider the specific vulnerabilities of LGBTIQ people and LBTIQ women specifically in policies on gender-based violence and domestic violence, reflecting the scope of the Directive on combating violence against women and domestic violence, including through good practice exchanges, capacity building, and support of civil society that are inclusive of the needs of LGBTIQ people and the violence they experience.

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<sup>1</sup> Belgium, Denmark, Germany, Greece, Ireland, Malta, Spain.

- Meaningfully include LGBTIQ-related issues and LGBTIQ CSOs in the transposition of the Directive on combating violence against women and domestic violence, including when monitoring and verifying the transposition and its implementation and when providing guidance to Member States.
- Publish the EU Recommendation on harmful practices against women and girls, as promised in the 2020 Gender Equality Strategy, including intersex genital mutilation, conversion practices and forced sterilisation, and host a good practice exchange with Member States based on the Recommendation.

Intersex people are victims of gender-based violence. While gender-based violence affects endosex women disproportionately, other parts of the population, namely people with diverse sexual orientation, gender identity, gender expression or sex characteristics, are also **particularly vulnerable** to being exposed to some forms of gender-based violence, which similarly to violence against women are driven by a desire to punish those seen as transgressing societal norms and stereotypes about gender and sex<sup>2</sup>. It is therefore key to acknowledge this **specific vulnerability of intersex women and girls**, and LGBTI women in general, and pay specific attention to their meaningful inclusion in national policies on gender-based violence and domestic violence, in order to ensure that the full scope of the Directive on combating violence against women and domestic violence is upheld.

In particular in regards to intersex women and girls, the European Parliament, in its 2021 resolution on identifying gender-based violence as a new area of crime, already identified **intersex genital mutilation as a specific form of gender-based violence** and a form of femicide and called on Member States to ban female and intersex genital mutilation<sup>3</sup>.

Changing the genitalia of an intersex infant that has been assigned as ‘female’ to better align with ‘typical’ female genitalia, is still a recommended and performed ‘treatment’ across most EU countries. Such harmful practices, performed in infancy and early childhood, include, among others, operations on the vulva and the clitoris (including clitorrectomy and clitoris recession, i.e. the removal or retraction of the ‘too big’ clitoris), and surgeries aiming to allow for penetrative penis-into-vagina sexual intercourse in the future, as is the case with vaginoplasties. More importance is given to adhering to social expectations around sex and gender than to respecting the person’s bodily integrity and self-determination. The EU Recommendation on harmful practices against women and girls is a very needed tool to guide Member States towards establishing a better understanding of the diversity of harmful practices that women and girls experience across the EU, including in medical settings, and

<sup>2</sup> European Parliament resolution of 16 September 2021 with recommendations to the Commission on identifying gender based violence as a new area of crime listed in Article 83(1) TFEU (2021/2035(INL)), Recital L [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0388\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0388_EN.pdf)

<sup>3</sup> European Parliament resolution of 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU, Recital H and M, Article 28 (2021/2035(INL)).

to support them to create measures to ensure better protection of this large part of the population.

### 3 - Conversion practices

#### Recommendations

We urge the European Commission to:

- Support Member State level action on ending conversion practices, including for example the facilitation of good practice exchange, the commission of a study on cross-border conversion practices, the publication of a guidance document and/or the creation of a checklist for bans at national level.
- Publish a Recommendation on harmful practices against LGBTIQ people, including conversion practices, intersex genital mutilation, and forced sterilisation.

The 2023 FRA LGBTIQ III Survey data shows that **39%** of intersex respondents reported having **experienced conversion practices**, with especially high rates of practices like verbal abuse or humiliation as well as intervention by family members. Intersex people also experience higher rates of conversion practices compared to endosex LGBTIQ respondents, in some cases with the rates being double that of their endosex counterparts (such as for psychological/psychiatric treatment and physical violence).

Therefore, a **broad definition of conversion practices**, which covers the full range of multiple harmful practices which have the aim to convert or change the person it targets, is necessary. For intersex children, reportedly, such practices include violence and coercion in inner family settings as a daily form of conversion practice with the goal to make sure that they behave along rigid binary gender norms as “boys” or “girls” ; enforced psychotherapy and, in some religious families, practices akin to exorcism. These practices create long-term and sometimes irreversible psychological marks and trauma. Similarly, the harmful practice of IGM can be understood as a form of conversion practice **that manifests itself directly and irreversibly on the body of the intersex person**, leaving physical as well as psychological trauma.

The EU Commissioner for Equality, Preparedness & Crisis Management, Hadja Lahbib reiterated her goal of taking all measures, including legislative measures, within the competence of the EU in relation to banning conversion practices. It is of the utmost importance that any definition of ‘conversion practices’ should include all practices aimed at changing a person’s SOGIESC, and that such a definition should also take into consideration the **overlaps of some conversion practices with hate speech**. For example, how promoting certain conversion practices is a form of hate speech, and how intersexphobic hate speech such as e.g promoting IGM or other hateful rhetoric/pathologization, should fall within such

definitions. We strongly call on the European Commission to ensure that such specificities are taken into account in the definition of ‘conversion practices’, and especially include the full range of harmful medical practices which aim to ‘convert’ or ‘alter’ a person.

## 4 - Awareness raising about intersex realities and IGM through targeted action

### Recommendation

We urge the European Commission to:

- Step up ambitions from the last Strategy and publish an EC Communication on banning intersex genital mutilation, in line with the 2014 Communication on ending FGM. The Communication should go hand in hand with exchanges of good practices between Member States on IGM bans, an essential measure in fostering more protection at national level.

In 2020, the European Commission published the LGBTIQ Equality Strategy 2020-2025, which comprehensively included, for the first-time ever, a clear mandate to work on a range of actions inclusive of intersex human rights issues. Within the Strategy, the Commission identified intersex genital mutilation (IGM) as a harmful practice, and committed to working on including it within the upcoming Recommendation on ending harmful practices against women and girls. The previous Parliament had already taken a clear and strong position on the criminalisation of intersex genital mutilation as a form of gender-based violence and as a harmful practice<sup>4</sup>.

While this **explicit recognition and inclusion of intersex rights** within the Commission’s work on LGBTIQ equality marked an important step forward, not all of the commitments from the Strategy were delivered on. The Recommendation on harmful practices against women and girls and the Commission’s intersex study have still not been published. Hence, no direct guidance that would address and increase the understanding of the harmful practice of IGM within Member States has been published by the European Commission so far and limited action has been taken to engage with Member States on the topic of banning IGM.

At the same time, in recent years, an increasing number of Member States have **recognised IGM as a harmful practice**, following recommendations from UN bodies and the relentless mobilisation from intersex activists, among other factors. As of 2025, 5 EU Member States have banned IGM (Malta 2015, Portugal 2018, Germany 2021, Greece 2022, Spain 2023),

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<sup>4</sup> European Parliament resolution of 14 February 2019 on the rights of intersex people ([2018/2878\(RSP\)](#)) ; European Parliament resolution of 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU, Recital H and M, Article 28 (2021/2035(INL)).

however to different extents and the monitoring reports by OII Europe's national member organisations show significant gaps in the implementation of such laws, as well as blatant circumvention of them - not only by medical professionals but also by judges, where applicable.

It is time for the European Commission to seize the topic and **address the human rights violations impacting the lives of intersex people**, by publishing a Communication on banning IGM, the same way that FGM was addressed in the 2014 Communication on banning FGM.

## 5 - Protection from discrimination

### Recommendations

We urge the European Commission to:

- Propose an alternative to the Equal Treatment Directive on how to fill essential gaps in legal protection outside the labour market, and on how to ensure this protection covers all SOGIESC grounds.
- Work with Member States to put in place EU level legislation closing the gaps in protection against discrimination in all areas of life; taking into account the inclusion of the grounds of sexual orientation, gender identity, gender expression and sex characteristics in the EU Equality Bodies Directive 2022/0400 in the definition of a victim, adopted in May 2024.
- Ensure that any future Treaty revision will explicitly include gender identity, gender expression and sex characteristics as protected grounds in the EU.

FRA data from the LGBTIQ III Survey shows that intersex people report the **highest discrimination rates**, together with trans people, among LGBTIQ people. In 2023, **62% of intersex respondents in 2023 felt discriminated against** because of being intersex in at least one area of life; while **61%** said so in 2019. It shows that intersex people are still experiencing the same amounts of discrimination as 4 years before. And in some cases, discrimination is seen to be on the rise. A higher proportion of intersex respondents reported experiencing discrimination when **looking for work** in 2023 (**31%**) than in 2019 (27%), or when **looking for housing** to rent or buy in 2023 (**28%**) than in 2019 (20%).

Intersex people are not explicitly protected from discrimination in national anti-discrimination legislation at national level. Only 8 EU Member States<sup>5</sup> have included sex characteristics as a protected ground in at least one area of life.

This uneven level of protection across the EU **restricts intersex people's freedom of movement**. They should be able to move and live freely within any EU country, without fearing

<sup>5</sup> Belgium, Denmark, Finland, Greece, Malta, Netherlands, Portugal, Spain



that their rights will not be upheld because of shortcomings in the law. Some countries which do not protect LGBTIQ people have shown complete disregard for the enforcement of EU values, which are at the core of the responsibilities of EU Member States. Instead, some Member States have passed blatantly discriminatory legislation and have enforced policies targeting and singling out LGBTIQ people, in violation of their basic fundamental rights. Those anti-LGBTIQ laws, policies and rhetoric are incompatible with EU Member States' obligations under the Treaties. **Ensuring compliance with EU values** via infringement procedures and withdrawal of EU funds is one area of action, but it should be complemented with strengthening the EU legal framework upholding these values, among which respect for minorities and non-discrimination. The European Commission should work more closely with Member States to **make sure protection gaps are closed**.

A European Union where people are truly free to move around and settle in all 27 countries will further enhance their economic potential, with diverse talents feeling safe and welcome everywhere.

## 6 - Health

### Recommendations

We urge the European Commission to:

- Publish a Recommendation on harmful practices experienced by LGBTIQ people, including intersex genital mutilation, conversion practices and forced sterilisation (see also section above on *conversion practices*).
- Pay specific attention to LGBTI people, and especially young people, in the implementation of the Comprehensive approach to mental health.
- Include medications essential for the health and well-being of LGBTIQ people, and trans and intersex people in particular, including PrEP, PEP and hormones, in the list of critical medicines.
- Add LGBTI-specific identification questions, including experience-based questions to capture the experiences of intersex people, into the 2027 version of the European Health Interview Survey (see also section on *data collection* below).

Intersex as well as LGBTQ people experience **challenges in accessing quality healthcare**. Barriers in access to healthcare manifest across the full variety of healthcare services for intersex people. A key barrier to healthcare for intersex, as well as LGBTQ people, is the level of stigma and discrimination they encounter in healthcare settings and the lack of knowledge about LGBTIQ health issues among many healthcare providers.

Intersex people experience this phenomenon acutely. Figures from the FRA LGBTIQ III survey reveal that **39%** of intersex respondents have encountered **challenges when trying to access mental healthcare**, **20%** when accessing **emergency care** and **48%** when accessing **other medical care**. Around **one in five** intersex respondents said that they had to change their medical practitioner or specialist because of their **negative reaction**, and **8%** of intersex respondents said that they were **refused treatment**.

**Quality and comparable data** on health challenges and access to healthcare for LGBTI people is lacking, because of lack of inclusion of SOGIESC data collection in health-related surveys at national level. At EU level, this issue can be tackled by mainstreaming SOGIESC data collection in the area of health, among others. The European Health Interview Survey which will be conducted again in 2027 by ESTAT should include questions on SOGIESC, from an experience-based perspective. Experience-based questions will better capture the experiences of intersex people (eg. “do you have a variation of sex characteristics?”) rather than identity-based questions (eg. “are you intersex”), as not all intersex people identify as intersex.

Intersex people might need **access to certain life-saving medication**, including hormones, linked to their variation of sex characteristics, but also as a result of experiencing health issues after having experienced IGM (e.g. osteopenia and osteoporosis, metabolic imbalances). Access to medication can become especially challenging during times of conflict or crisis, as we have seen in Ukraine since the beginning of the war. This is why medications which are essential for the health and well-being of LGBTIQ people need to imperatively be included in the list of critical medicines, following the European Commission’s commitment in the 24.10.2023 Communication on addressing medicine shortages in the EU, to accelerate the work on this list.

## 7 - Socio-economic inequality

### Recommendations

We urge the European Commission to:

- Include LGBTI people as a target group in EU social policies and policies tackling homelessness, including in the new Anti-Poverty Strategy, the revision of the European Pillar of Social Rights Action Plan and the Affordable Housing Action Plan.
- Conduct a study on the economic cost of exclusion of LGBTI people from the labor market, which centres an intersectional approach by paying specific attention to highly vulnerable groups such as young people.

- Work with Member States to develop guidelines for employers, including identifying incentives to implement inclusive hiring practices, and implement tailored training for people facing barriers to access to the labor market.

The most recent data specifically on socio-economic factors from the 2019 LGBTIQ II survey paints a worrying picture when it comes to intersex people's socioeconomic situation. For example, **25.06%** of all intersex respondents reported having difficulty or great **difficulty making end meets**, almost twice as much as all LGBTI respondents (13,91%). This number is even higher for intersex people from an **ethnic minority/with a migrant background (31.93%)**, for intersex people with **disabilities (31.22%)**, and for intersex people who have experienced any intersex-related **medical intervention (36.20%)**.

Furthermore, the LGBTIQ III FRA survey data reveals that intersex people are **30 times more likely** to have had to **sleep rough in a public space** at least once in their life than the general population (6% for intersex people and 0.2% for the general population).

As clearly exemplified by the aforementioned data, intersex people belong to one of the most vulnerable and marginalised groups in society. Discrimination, stigmatisation and the consequences of the human rights violations they have experienced, have a serious and overarching impact on their socio-economic status and quality of life. Intersex people often face discrimination from a young age at school, when seeking employment later in life, as well as discriminatory treatment in the workplace, all of which culminate and lead to financial insecurity and greater risks of poverty, social exclusion and homelessness.

## 8 - Youth/Education

### Recommendations

In the area of LGBTIQ youth, we urge the European Commission to:

- Collect data on LGBTIQ youth and children, especially ensuring that intersex youth are meaningfully included. Young people are often excluded from data collection efforts - gathering information on their lived experiences in relation to different areas of life is all the more important in the current climate of backlash. (see also the section on *Data Collection*).
- Include young intersex people, alongside young LGBTQ people, in actions explored by the Commission when looking at the impact of AI and other digital technologies.

- Ensure that intersex youth, alongside young LGBTQ people, are meaningfully included in the implementation of the Comprehensive approach to mental health. (see also section on *health* above)

In the area of education, we urge the European Commission to:

- Encourage comprehensive sexuality education guidance, even if Member States retain full competence in this area, through for example the facilitation of a good practice exchange between Member States, the Commission and relevant CSOs.

Intersex youth are particularly vulnerable to discrimination, exclusion and violence. According to the latest FRA LGBTIQ III survey, **76%** of the intersex respondents suffered **bullying, ridicule, teasing, insults or threats** because they are intersex. Furthermore, **30%** of intersex respondents aged 15-17 reported having experienced a **physical or sexual attack** due to being intersex in the past 12 months, compared to 7% of endosex respondents of the same age.

Furthermore, cross-cutting issues such as the impact of hate speech online, imperatively need to be taken into consideration in all areas of action which are targeted towards intersex youth. Here again, the latest FRA LGBTI III survey data is striking: **37%** of intersex respondents aged 15 -17, reported **often encountering online calls for violence against LGBTIQ people** in the last 12 months, and 17% of them said they always encountered such content.

So far, only 8 EU Member States<sup>6</sup> include the ground of sex characteristics in non-discrimination legislation in the field of education. Intersex and LGBTQ youths' experiences also need to be included and mainstreamed by Member States in their actions targeting youth, including for example in surveys targeting children and young people. Additionally, surveys which aim to collect data about young people in the EU, should include experienced-based questions to ensure that LGBTIQ youth perspectives are represented.

The rights of intersex youth should be incorporated into all child rights actions put forward by the Commission. These actions should be aligned with similar efforts to eliminate the harmful practice of FGM, which shares many similarities with IGM, across the EU. In the same vein, infrastructure for civil society working to eradicate such practices should be made available.

## 9 - Enhancing intersectionality

### Recommendations

We urge the European Commission to:

<sup>6</sup> Belgium, Denmark, Finland, Greece, Malta, Netherlands, Portugal, Spain.

- Address intersectional discrimination through anti-discrimination and/or hate crime legislation. The EU should urgently work to update legal frameworks to recognise that people can experience discrimination and hate because of multiple aspects of their identities and experiences.
- Enhance intersectionality and to mainstream an intersectional approach across the forthcoming Strategy, paying particular attention to keeping the language around women and men “in all their diversity”.

Intersex people can experience discrimination and multiple forms of marginalisation at the same time. According to the latest FRA LGBTIQ III survey, **54%** of intersex persons who are also part of a minority group reported experiencing difficulties when trying to access **mental healthcare services**, **52%** of intersex respondents from a **minority group** reported **experiencing discrimination** in the 12 months before the survey due to being intersex. Furthermore, **42%** of **non-binary/gender diverse intersex respondents** who belong to a **minority group** reported feeling discriminated against due to being intersex by **school/university personnel**.

Therefore, the next Strategies prepared by the Commission should include specific and targeted measures tackling intersectional discrimination, including actions and measures which take into consideration the specific experiences and needs of intersex people. For example, concrete measures and deliverables to **increase understanding about the situation as well as enhance the protection of intersex children**, along with LGBTQ children, should be outlined in the Strategy on the Rights of the Child; similarly the specific experiences and needs of **intersex persons with disabilities** should be addressed with targeted measures in the Strategy on the Rights of Persons with Disabilities. At the same time, these strategies need to be followed up with **structures for cooperation across DGs** to implement this intersectional approach, through for example a strong Task Force (see also section below on *mainstreaming intersex across DGs*).

We are living in times where **digital technologies and their intersection with discrimination** also need to be urgently taken into account. We urge the Commission to ensure that the next LGBTIQ Equality Strategy commits to commencing a legal study on intersectional discrimination in anti-discrimination and hate crime legislation, in order to identify good practices and ways forward. Such a study should imperatively include looking at the new forms of discrimination which are arising from and being exacerbated by the use of AI and other digital technologies (see also section above on *hate crime and hate speech*).

## 10 - Asylum

## Recommendations

We urge the European Commission to:

- Support the human-rights compliant implementation by Member States of the Pact on Asylum and Migration, ensuring that the rights of intersex as well as LGBTQ asylum seekers are respected, particularly in the current climate of erosion of fundamental rights and international obligations in the region.
- Work with the EUAA and Member States to ensure that the AMMR and forthcoming 5-year strategy are developed with the rights and specific needs of intersex and LGBTQ refugees being adequately considered.
- Ensure that Member States comply with UNHCR guidelines, as well as with relevant rulings of the European Union's Court of Justice (CJEU), which provide clear parameters that should be respected by Member States' immigration authorities in relation to the granting of asylum for intersex, as well as for LGBTQ asylum seekers.
- Engage with civil society organisations, including intersex organisations and activists, and other stakeholders working with intersex refugees and asylum seekers to gather insights into implementation challenges, involving them in the development of relevant policies, as well as in the provision of services and integration.
- Monitor the detention and border screening practices across Member States to ensure they adhere to EU law and respect the rights and vulnerabilities of intersex and LGBTQ asylum seekers. This involves conducting inquiries (also with the help of the EUAA Fundamental Rights Officer), requesting updates from Member States authorities, and advocating for improvements where identified.
- Commit to working with Member States to ensure humanitarian visas are made available to intersex human rights defenders, including those from so-called "safe countries".
- Commit to ensuring explicit access to humanitarian admission and relocation for intersex asylum seekers, including intersex human rights defenders and activists, from third countries.
- Commit to finding ways to ensure safe solutions for intersex human rights defenders and activists to obtain non-immigration short-term visas.

In 2024, the European Union adopted the CEAS, a long-debated framework introduced amidst mounting political pressure to tighten migration controls. While the Pact on Asylum and Migration aims to standardise asylum procedures across Member States, it prioritises border security at the expense of **safeguarding vulnerable groups**, such as **intersex persons** and other applicants with diverse SOGIESC, for whom the situation is particularly alarming, and who often require more time to feel safe enough to reveal their specific vulnerabilities<sup>7</sup>.

<sup>7</sup> For more information please see the OII Europe Intersex Refugees & Asylum Seekers Toolkit, page 30. Available here:

Many intersex people across Europe, Central Asia and the MENA region are forced to flee their homes to seek safety and protection from violence. Intersex refugees and asylum seekers, along with LGBTQ refugees and asylum seekers, **face heightened levels of violence and discrimination**, both because they are intersex/ have diverse SOGIESC as well as the fact that they are refugees. OII Europe has worked together with the European Asylum Agency (EUAA) in the development of key standards and implementation guidelines that seek to address the needs of specific vulnerable groups such as applicants with diverse SOGIESC.

LGBTIQ refugees report facing prolonged detention or deportation due to inconsistent recognition of persecution based on their sexual orientation and gender identity (or, for intersex persons, on the basis of their sex characteristics). Notably however, the Asylum and Migration Management Regulation (AMMR) introduces a **monitoring mechanism** that empowers the European Commission to oversee and address violations of asylum seekers' rights. This mechanism can be especially valuable when Member States fail to uphold protections for vulnerable groups such as intersex persons, ensuring that their treatment aligns with EU standards. By closely **monitoring compliance with fundamental rights obligations**, the Commission can intervene in cases where LGBTI asylum seekers face discrimination, detention in inadequate conditions, or unsafe returns, offering a vital layer of accountability for Member States.

The EU should prioritise safeguarding the rights of LGBTIQ asylum seekers, in particular intersex (and trans) asylum seekers, including those from **so-called 'safe countries'**, as they are among the most vulnerable within the LGBTIQ spectrum due to the still prevalent lack of measures targeted towards them, as well as the fact that "safety" for intersex persons is very locally-context specific and hard to qualify due to the vast difference in experiences and identities.

## 11 - Sport

### Recommendations

We urge the European Commission to:

- Promote inclusive sports policies, centering the right to practise sport free from discrimination.
- Initiate good practice exchanges between Member States on how to ensure equitable access to sports at amateur as well as professional level without discrimination for intersex persons of all ages.

Intersex people have faced serious **human rights violations in the area of sports** and continue to be excluded from competing at the elite level. Exclusion and discrimination keeps intersex people away from sports, in all levels, including amateur level.

At a competitive level, **sex testing of athletes** has disproportionately targeted intersex women, exposing them to mandatory genital exams and invasive medical testing. World Athletics recently updated its policy, going back to mandatory sex testing for all athletes competing in the female category<sup>8</sup>, a policy that was enacted in the 1990's and abandoned shortly after because of its harmful impacts. This policy will be used to disqualify intersex women from elite competitions based on an arbitrary and narrow definition of femaleness using testosterone levels as the sole criteria for assessing eligibility to compete. Furthermore, in order to comply with these same eligibility rules in place, intersex women have been forced to medically lower their testosterone levels, and in some cases, have been coerced into having intersex genital mutilation performed on them<sup>9</sup>. Exclusionary regulations put in place by sports federations and sex testing further marginalises intersex women who already risk facing **greater levels of discrimination and violence in sports**<sup>10</sup>.

These exclusionary regulations and hostile climate trickle down into society and restrict access to sport for intersex children and teenagers. All children and adults deserve the right to participate in sports free from abuse, violence, discrimination, and with dignity, no matter their gender identity or sex characteristics.

## 12 - Items not yet delivered from previous LGBTIQ Equality Strategy 2020-2025

Some outstanding actions and objectives remain from the LGBTIQ Equality Strategy 2020-2025 that we call on the Commission to urgently deliver on:

- Publication of the Intersex Study, which was announced for 2023, without further delay.
- Publication of the the Recommendation on ending harmful practices against women and girls (see also section above on *Gender based violence*), which should address the harmful practice of intersex genital mutilation (IGM), alongside forced

<sup>8</sup> See OII Europe's reaction to this new harmful World Athletics policy, available at:

<https://www.oii-europe.org/world-athletics-decides-to-mandate-sex-testing-for-women-athletes/>

<sup>9</sup> See Human Rights Watch's report, "They're Chasing Us Away from Sport: Human Rights Violations in Sex Testing of Elite Women Athletes", December 2020, available online at :

<https://www.hrw.org/report/2020/12/04/theyre-chasing-us-away-sport/human-rights-violations-sex-testing-elite-women>

<sup>10</sup> For examples of how discrimination and violence in sports manifests, see the report "LBTI women in sport: violence, discrimination, and lived experiences" written by LGA-Europe, the EuroCentralAsian Lesbian\* Community (EL\*C), Transgender Europe (TGEU), Organisation Intersex International Europe (OII Europe), and the European Gay & Lesbian Sport Federation (EGLSF). Available at: <https://www.ilga-europe.org/report/lbti-women-in-sport-violence-discrimination-and-lived-experiences/>



sterilisation, obstetric and gynecological violence and conversion practices.

- Organise a good practice exchange between Member States on ending the harmful practice of IGM

The European Commission Intersex study is so far the only qualitative EU wide study that exists. The study has the potential to immensely contribute to **raising awareness about intersex realities across the EU**. It is also a crucial instrument in that its publication will allow Member States to access the data they need in order to set up better protection for intersex people at national level. The study will also significantly contribute to raising awareness about intersex realities and the everyday challenges faced by them. Intersex people who participated in the study also report feeling misused by the European Commission.

The proposed European Commission Recommendation on ending harmful practices against women and girls is strongly needed in order for Member States to better understand the issues at stake, as there is still a large lack of knowledge about the impact and scale of **harmful practices against women and girls in all their diversity** (particularly of intersex genital mutilation (IGM) as well as obstetric and gynecological violence). The Recommendation will play an important role in encouraging Member States to initiate measures to eradicate such practices, including in their national action plans, etc.

We encourage the European Commission to organise a good practice exchange among Member States on ending the harmful practice of IGM. To allow for a comprehensive and impactful exchange, it should be envisioned as a topic for the LGBTIQ Equality Subgroup, similar to the meeting of November 14th 2022 on the participation of trans and intersex persons in the labour market; it can alternatively also be a dedicated part of the discussion during an LGBTIQ Equality Subgroup meeting which focuses on harmful practices in general.

## 13 - Mainstreaming of intersex including across DGs

### Recommendations

We urge the European Commission to:

- Nominate LGBTIQ coordinators in each Directorate-General to ensure mainstreaming of an approach which considers the impact of policies on LGBTIQ people in all areas of EU policy.
- Move the Equality Task Force to the Secretariat-General, and give the Task Force a strong mandate to build cooperation between different services on the

implementation of the Equality Frameworks, and to work transparently and in close consultation and cooperation with European Equality networks.

**Mainstreaming of LGBTIQ equality across all Commission services** in charge of actions from the Strategy will ensure proper implementation of those measures. Stronger institutional structures are needed to ensure that the renewed Strategy can fully realise the political ambitions expressed in the mission letter. The first LGBTIQ Equality Strategy set out objectives and key initiatives in a variety of policy areas throughout the whole EC structure, but implementation has shown that **better coordinating mechanisms are needed** to ensure all services of the EC are fully engaged and are cooperating, and to ensure all equality strategies are working hand in hand.

Moving the Equality Task Force back to the Secretariat-General, and giving it a **strong mandate** to ensure coherence in the implementation of all equality strategies, including through close collaboration with nominated LGBTIQ coordinators in each Directorate-General and with DG JUST, will help fulfil the ambition of intersectional equality work and mainstreaming of equality considerations internally set out in the first Strategy.

## 14 - Data collection

### Recommendations

We urge the European Commission to:

- Add LGBTIQ identification questions, including experience-based questions to capture the experiences of intersex people, into the 2027 version of the European Health Interview Survey (also see the *health* section above).
- Mainstream SOGIESC data collection across EU-level data collection exercises, including at Eurostat, and encourage MS to include SOGIESC data collection in general population surveys.
- Work with Eurostat to mainstream SOGIESC data collection through the newly established Equality data Task Force.

Over the past 5 years of the LGBTIQ Equality Strategy 2020-2025, we have seen a significant increase in the trend of including the grounds of SOGIESC. The inclusion of the full list of grounds by the Commission in the LGBTIQ Equality Strategy 2020-2025 set an important precedent in that it encouraged Member States to tackle issues of equality and discrimination for all LGBTQ people, including intersex people. However there is still a long way to go, and many gaps still remain. In the current political climate, **consistency from key EU institutions like the Commission is key.**

As already set out in the Subgroup on Equality Data's 2023 "Guidance note on the collection and use of data for LGBTIQ equality<sup>11</sup>", collecting data which includes the ground of sex characteristics in survey questions **brings visibility to intersex persons** and gives a name to the specific ground upon which they experience discrimination or hate speech/hate crime or other forms of violence. Including comprehensive definitions of these terms is important in order to provide clarification to participants of surveys or data collection initiatives. Previous experience shows that this significantly **improves response rates to surveys**.

At EU-level, good practice examples are of course the FRA LGBTIQ surveys, the newly launched European Cancer Organisation survey on inequalities in cancer screening and care for LGBTIQ people and the EU-funded study on non-binary legal gender recognition and experiences of the law (Dr. Peter Dunne, University of Bristol). These surveys and data collection efforts have helped tremendously to point to existing gaps and remaining inequalities that urgently need to be addressed.

## 15 - Funding

### Recommendations

We urge the European Commission to:

- Maintain a funding stream for CSOs working for LGBTIQ equality under the CERV program, identified as crucial partners to support the European Commission's policy priorities in the context of the LGBTIQ Equality Strategy 2020-2025, and the upcoming renewed Strategy beyond 2025.
- Maintain the CERV funding program in its current four-strand constellation and as a standalone program. Additionally, we urge the EC to:
  - Reduce the CERV co-funding requirement from 20% to 10%
  - Revise re-granting timeframe within CERV which puts a lot of pressure on small organisations
  - Consider inflation and cost increases and their impacts on LGBTIQ organisations' work

Currently, the EU provides adequate and accessible funding through various relevant funding programmes such as, since 2021, the Citizens, Equality, Rights and Values (CERV) program. In particular under the CERV funding program, beneficiary organisations such as OII Europe have increasingly **benefitted from an increased capacity** to actively contribute to

<sup>11</sup> Guidance note on the collection and use of data for LGBTIQ Equality, Available at: [https://commission.europa.eu/document/download/66adbc7e-99cb-4d88-a653-d7fbfba9d7e8\\_en?filename=Guidance%20note%20on%20the%20collection%20and%20use%20of%20data%20for%20LGBTIQ%20equality\\_FINAL.pdf](https://commission.europa.eu/document/download/66adbc7e-99cb-4d88-a653-d7fbfba9d7e8_en?filename=Guidance%20note%20on%20the%20collection%20and%20use%20of%20data%20for%20LGBTIQ%20equality_FINAL.pdf)

the **development and implementation of EU policies**, including but not limited to promoting LGBTIQ equality and fighting discrimination against LGBTIQ people (including intersectional discrimination and inequality experienced by intersex people on grounds of sex characteristics) and support the European Commission in implementing the objectives set out in the LGBTIQ Equality Strategy 2020-2025.

The CERV program aims to protect and promote Union rights and values as enshrined in the EU Treaties and the Charter of Fundamental Rights. The **safeguarding of these foundational values** is more important than ever at a time when these very values are under attack and threatened. In particular with the significant impact on intersex organisations, as well as LGBTIQ civil society organisations in general, following the withdrawal of US funding, the EU should increase availability and accessibility of funding for intersex-led organisations/groups and organisations in all countries where it is active. **Flexible and accessible funding is key** for smaller intersex organisations who play a central role in protecting and advancing intersex rights as well as upholding key EU fundamental values, at national level.

It is also critical for CERV to be maintained as a standalone programme in the future MFF 2028-2034, and for its current four-strand structure to be conserved. All four strands are crucial and should remain priorities in the next cycle, as they address important dimensions of core rights that directly tie to ensuring LGBTIQ equality at national and EU level, as well as protecting EU values and democratic participation. The forthcoming LGBTIQ Equality Strategy should set forth key action points and measures for EU Member States which tie directly into the core principles and values advanced and upheld by many of the CSOs who receive funding under one of the four strands of the CERV program.

Lastly, we urge the Commission to work to ensure that reporting requirements and regulations that need to be in place for framework partners who plan to regrant are aligned with the situation of smaller and grassroots CSOs, in particular in regard to the application, implementation and reporting timeframes. The current implementation time set up through the application and reporting regulations is much too short. More support to re-granting framework partners is needed in regards to setting up the regulations necessary to apply for FSTP.

## 16 - Enforcement of EU legislation & infringement procedures

### Recommendations

We urge the European Commission to:

- Work to create an EU implementation mechanism related to the (non-) implementation of judgements of the Court of Justice of the EU (CJEU). The mechanism should include a transparent online monitoring platform, the possibility for civil society organisations to submit information (akin to Rule 9 submissions), the stepping up of infringement procedures, and the establishment of a dedicated

monitoring unit within DG JUST or the creation of an independent body (similar to FRA, for example).

- Take concrete action to support Member States in the implementation processes of CJEU judgements.

In order to **ensure respect for EU law and fundamental rights** standards in the EU, it is essential that the EU Treaties and the Charter of Fundamental Rights are respected by all EU Member States, especially in the current political climate of the erosion of democratic values. However, where the EU's laws are not respected, the Court of Justice of the EU can be relied upon to enforce the law.

In relation to intersex rights, the Court also plays a major role in that it instructs national authorities on how to proceed in cases where legal protection gaps remain, as is often still the case for **intersex people who still lack explicit protection from discrimination** in the Treaties and Charter on the specific ground of sex characteristics.

The non-implementation of crucial Court of Justice of the European Union (CJEU) judgements are effectively a rule of law issue, often particularly in relation to freedom of movement. At the same time, upholding the rule of law within our Union has become ever more crucial during this time of an increasing disrespect for fundamental rights and LGBTIQ rights, fundamental freedoms and the laws by which European countries have agreed to abide.

## 17 - External dimension

### Recommendations

We urge the European Commission to:

- Maintain its commitment to promoting and advancing LGBTIQ rights globally, including in bilateral and multilateral relations as well as through protection and financial support to LGBTIQ human rights defenders and organisations.
- Continue sharing best practices at international fora on safeguarding the rights and freedoms of intersex and LGBTIQ people within and beyond the boundaries of the EU.

In the LGBTIQ Equality Strategy 2020-2025, the European Commission put forward ambitious actions for LGBTIQ equality in EU external action and policies. Since then, the global climate for LGBTIQ people has worsened. **Anti-LGBTIQ legislation and policies are spreading** to many countries around the world, and the anti-gender movement is gaining more and more

influence and power within the EU. Anti-LGBTIQ backlash has **severe real life impacts** on the everyday lives of intersex and LGBTQ people, **impeding their right to freedom of expression, freedom of assembly** and in some cases some of their most basic **fundamental rights**. Now more than ever, we need the Commission to take a strong stance for intersex and LGBTQ people's human rights, not only within the EU, but to present an alternative to hatred and division also on the global stage.

Yet, in this challenging climate, positive steps have been taken to advance intersex rights globally. For the first time, a resolution from the United Nations Human Rights Council on the rights of intersex people was passed, giving unprecedented visibility and momentum to the fight for bodily autonomy and respect for diversity led by intersex activists around the world. For the first time, we also witnessed a strong call to end intersex genital mutilation emanating from a group of medical experts and researchers affiliated with the World Health Organization. The European Union can follow these positive developments and **echo the call to protect intersex people from unnecessary and non-consented medical interventions**.